

**SUPREME COURT - STATE OF NEW YORK
TRIAL TERM, PART 25 NASSAU COUNTY**

PRESENT:

Honorable Karen V. Murphy
Justice of the Supreme Court

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**WELLS FARGO BANK, NATIONAL
ASSOCIATION AS TRUSTEE FOR
SECURITIZED ASSET BACKED RECEIVABLES
LLC 2005-FR4 MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2005-FR4
c/o Countrywide Home Loans, Inc.
400 Countrywide Way
Simi Valley, CA 93065**

Index No. 11675/06

Plaintiff,

-against-

**CATERINA GISONDA, MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS, INC.
AS NOMINEE FOR WMC MORTGAGE CORP.,
PEOPLE OF THE STATE OF NEW YORK,**

**JOHN DOE (Said name being fictitious, it being
the intention of Plaintiff to designate any and all
occupants of premises being foreclosed herein, and
any and parties, corporations or entities, if any,
having or claiming an interest or lien upon the
mortgaged premises.),**

Defendants.

_____ x

Petitioner seeks to foreclose a mortgage; an order appointing a referee to determine the amount due and whether the premises can be sold in parcels and amending the caption to add Michael Gisonda as a party in place of "John Doe" and deleting the Plaintiff's address from the caption.

Previously the Court denied the application noting that the alleged unrecorded assignment was executed by Defendant Mortgage Electronic Registration Systems, Inc. rather than by the lender Fremont Investment & Loan. Furthermore, Plaintiff failed to establish that it is a party in interest or that it had standing to commence this action.

Plaintiff has not provided a copy of the servicing agreement between Wells Fargo Bank and Countrywide Home Loans, Inc. to prove that Countrywide Home Loans, Inc. is acting as the agent of Wells Fargo Bank and within the scope of the authority set forth in the agreement.

Plaintiff has failed to cite any authority entitling Plaintiff to commence this action prior to the execution of the assignment. Similarly, Plaintiff has failed to provide a copy of the agreement between Fremont Investment & Loans, Inc. and Mortgage Electronic Registration Systems, Inc. to establish the terms and existence of such contract. Counsel's reliance on the alleged mortgage is unavailing inasmuch as that is an agreement between the lender and the borrower, not the lender and its alleged agent.

For the foregoing reasons, the motion for an order of reference is denied. The application to amend the caption is granted and the caption shall be amended to read as follows:

**STATE OF NEW YORK
SUPREME COURT : COUNTY OF NASSAU**

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**WELLS FARGO BANK, NATIONAL ASSOCIATION
AS TRUSTEE FOR SECURITIZED ASSET BACKED
RECEIVABLES LLC 2005-FR4 MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES 2005-FR4,**

INDEX NO.: 11675/06

Plaintiffs,

vs.

**CATERINA GISONDA, MORTGAGE ELECTRONIC
INC. AS NOMINEE
FOR WMC MORTGAGE CORP., PEOPLE OF THE
STATE OF NEW YORK, MICHAEL GISONDA,
Defendants.**

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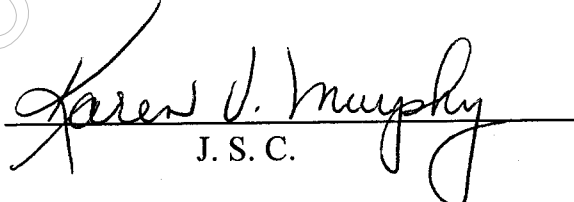
REGISTRATION SYSTEMS,

Plaintiff is further directed to check the legal description (i.e., section, block and lots) as it appears that reference is made to Section 35 and the subject property is in Section 32. The Notice of Pendency is therefore either indexed against a property not the subject of this litigation, or the incomplete copy annexed as Exhibit F is not a true and accurate copy of the document filed with the County Clerk. In the event that Plaintiff determines that the Notice of Pendency is improperly indexed, Plaintiff is directed to submit an order cancelling the Notice of Pendency forthwith.

All parties are required to attend a conference scheduled to be held in the courtroom of the Honorable Karen V. Murphy on Friday, May 4, 2007 at 9:30 A.M.

The foregoing constitutes the Order of this Court.

Dated: March 30, 2007
Mineola, N.Y.


J. S. C.

ENTERED

APR 12 2007

NASSAU COUNTY
COUNTY CLERK'S OFFICE